SOME ACCOUNT

OF AN

INTENDED PUBLICATION

OF THE

STATUTES.

ON A PLAN ENTIRELY NEW.

By HERBERT CROFT, Esq.

BARRISTER AT LAW.

PRINTED FOR E. BROOKE,

BELL-YARD, TEMPLE-BAR.

MDCCLXXXII.

[PRICE ONE SHILLING.]

MVSEVM
BRITAN
NICVM

TO THE

KING.

SIR,

SUFFER me, with all reſpect, to lay the following account of an intended publication of the ſtatute laws of my country before your Majeſty, who reigns by the laws, and whoſe reign began with a law recommended from your throne to perpetuate to your people the moſt perfect adminiſtration of juſtice.

To be enabled to employ my life in the execution of this plan, and to lay at your Majeſty's feet the work which it propoſes, is the higheſt ambition of,

SIR,

Your Majeſty's moſt dutiful ſubject,

and moſt devoted ſervant,

HERBERT CROFT, Junr.

Lincoln's Inn,
January 31, 1782.

PREFACE.

IT was the writer's intention to have offered this plan to the Publick in a profeſſional work, on which he had employed part of that time which every profeſſion ſpares to amuſement. Sickneſs put a ſtop to that work. This plan now makes it's appearance by itſelf.

If to the mode of publiſhing the ſtatutes, which is here propoſed, any praiſe ſhould be thought due, the whole of it does not fall to the writer's ſhare. The idea was in ſome meaſure projected in conjunction with his late able friend Mr. Lind.

If

If any acknowledgment be due to Lord Bacon for the idea, it is due to one from whom others have been very well content not only to borrow but to ſteal; and to whom, as the famous biographer ſays of Cervantes, "a mind of the greateſt "powers may be indebted without diſgrace*."

For the detail of the plan and for it's errors the writer alone muſt ſtand accountable.

Had Mr. Lind lived, it's errors would probably have been leſs numerous, it's language leſs exceptionable. Before his death, which happened in January 1781, the idea was not ſufficiently matured to be committed to paper. An account of it was required from the writer, at the time the plan is dated, for the purpoſe of ſubmitting it to the opinions of thoſe who were beſt qualified to determine the merit of ſuch a propoſal.

To boaſt of their flattering approbation would be ſufficient praiſe, were it decent; but, after all, ſuch a propoſal as this muſt reſt upon its own merit, and not upon the approbation of even the wiſeſt or the greateſt men.

* Johnſon, in the life of Butler.

Of

Of the utility and neceſſity of ſuch a work more might be ſaid than theſe pages contain, were it proper to make the preſent plan different from that which the writer was deſired to put into ſuch hands.

In the ſame words in which he drew it up at firſt, and with the ſame date, he now begs leave to ſubmit this plan to his profeſſion and to his country.

If it be good for any thing, it is ſurely good for a great deal. It's preſent imperfections may perhaps be eaſily remedied; and it is ſubmitted now to the publick for this among other reaſons, in order to catch opportunities from the advice and from the hints of others to render it as perfect as ſo extenſive a plan is capable of being made.

One only objection has been urged againſt it. His undertaking, the writer has been told, is immenſe and requires the ſacrifice of his profeſſion and of his whole life.

In anſwer to the former part of the objection, he maintains, that, the longer it is deferred, the more immenſe and even the more neceſſary it muſt grow; that much help may be gained from aſſociation or from aſſiſtance; and that induſtry may perform feats of which inactivity can form no conception.

To the latter part of the objection he ſays, that to be able to ſpend a whole life on ſo laſting a work, muſt, in his opinion, ſufficiently gratify any man's ambition.

In one reſpect indeed its immenſity will, he fears, obſtruct its execution. For, after Mr. Lind's death, when the writer had ſettled his plan and when he began to ſee a good deal of his way in the particular Code with which he meant to have commenced his publication, he applied to the printers. But the riſque of the whole expence attending ſo large a work was, he found, to be taken on himſelf.

Were his fortune equal to ſuch a riſque, he would take it on himſelf, not only with chearfulneſs, but by choice. Since, in a country where every individual is obliged to obey, and, conſequently, to know the laws; yet where, ſtrange as it may ſound, every individual muſt be able to buy the laws before he can poſſibly know them; who will not buy that edition of the laws, which will be in fact the cheapeſt, and which, it is hoped, will be in every reſpect the beſt?

But a plan of this nature is not to be carried on in a corner. The execution of a public work of ſuch magnitude ſeldom falls within the abilities of private men.

As it is, the writer confeſſes, while he laments it, that, whatever may be his fondneſs for the propoſed plan, he is not in a ſituation to ſacrifice to it his profeſſion and his life. Should the plan be deemed worthy of patronage, without which who can execute it? he will not faint under the taſk. If he ſhould, his country will have done her part, the crime will then be his.

After all, ſhould he never be enabled to carry into execution a work which he has been taught from the higheſt authority to think of the greateſt national importance, let not poſterity forget, when her children ſhall be further oppreſſed with 30 or 40 additional volumes of ſtatutes, that a plan was once propoſed which would have effectually lightened the load; and that, whatever were the abilities of him who propoſed the plan, he was at leaſt ready to bring to the taſk all that even the ableſt could venture to promiſe—the diligence of induſtry and the perſevering labour of a life which, at that time, had not many days paſt its 30th year.

SOME ACCOUNT
OF AN
INTENDED PUBLICATION
OF THE
STATUTES.

IN explaining or illuſtrating any author, the method moſt obvious to every man would be to read in a regular courſe whatever that author had written upon each particular ſubject.

The beſt method of explaining and illuſtrating the laws of any country, muſt be to read in a regular courſe, and in their chronological order, all the laws relating to each particular ſubject; and to accompany this courſe of reading by hiſtorical reſearches into the circumſtances which gave occaſion to the firſt proviſions, and to the ſucceſſive variations in each of the reſpective claſſes; as well as into the grounds upon which at different times different laws have been propoſed and rejected.

But in this manner the ſtatutes of our country cannot at preſent be ſtudied, for no ſuch digeſt of our ſtatutes is at preſent to be found, nor any ſuch conſtitutional hiſtory of their origin.

The Laws of our country under any particular head can only be found by truſting to fallacious references and to faithleſs indexes; or by a toil of hours, perhaps of days: while few make any enquiry after the views, the objects, and, it may be, the caprices of the legiſlature; and, of thoſe who do, fewer ſtill can find time or patience enough to hunt them out, and to trace them to their ſources.

If the immenſe body of our ſtatutes, which at preſent lies ſo heavy on every individual, were reduced into as many different codes as there are different claſſes of perſons either bound or favoured by the law; the bulk, ſuppoſing the number of codes to be *only* five hundred, would inſtantly become to every individual at leaſt five hundred times leſs burdenſome.

This

This two-fold plan, now evidently ſo much wanted, is that upon which it is propoſed to publiſh the ſtatutes; and propoſed it is hoped without much arrogance, ſince the execution ſurely will depend more on diligence than on genius, and leſs on quickneſs of parts than on perſeverance.

The magnitude of the work is no argument againſt its being undertaken. The ſhorteſt work, before it can be finiſhed, muſt have a beginning.

As this work will conſiſt of parts, one part done will be one ſtep, and the moſt important one, gained.

Of ſuch a work the advantages will be derived immediately to all ranks and to all orders of men; and, in its conſequences, perhaps, to all poſterity.

The people at large, in the different profeſſions which they follow, will have at once before their eyes all the ſtatutes in which their lives, their liberty, or their property are concerned; and will leſs frequently offend the law through ignorance or through want of information.

The lawyer, the hiſtorian, the politician, &c. will at leaſt poſſeſs thoſe means of underſtanding, and conſequently of explaining and of illuſtrating the ſtatutes, which they at preſent ſo totally want.

Nor will this be deemed the aſſertion of vanity, when it is recollected how voluminous are our ſtatutes; how inartificially they are jumbled together; how repeatedly they contradict each other, and how frequently the moſt important regulations and proviſions occur in ſtatutes where they would be leaſt expected; inconveniences of which Lord Bacon complained ſo loudly even in his time, and in conſequence of which he preſſed ſo ſtrongly and repeatedly a reformation of the laws; and which have increaſed tenfold ſince his days, as well from the greater prolixity and leſs perſpicuity of modern ſtatutes, as from the great and ſtill increaſing multitude under which our ſhelves have within theſe few years been made to groan.

In Lord Bacon's time the ſtatutes did not fill ſeven of Pickering's volumes, at preſent they are hardly contained in thirty-two. To the end of the reign in which Bacon died there are *only* 3540 laws; to the end of the fourteenth Parliament of Great Britain we have 13071, without taking into the account how many more objects are almoſt compriſed in a modern than in an antient ſtatute.

Finally,

Finally, and *moſt importantly*—in vain will the preamble to 5 Elizabeth, c. 4. have recommended it to " repeal and digeſt into one law or ſtatute the ſubſtance of as many laws of particular deſcriptions as are meet to be continued"—in vain will the Houſe of Commons have claimed, when James the Firſt was to have given up the Court of Wards, that, " for the better eaſe and certainty of the ſubject, all ſuch ſtatutes as were profitable concerning one matter might be reduced into one ſtatute" (Journals of the Houſe of Lords, July 23, 1610.)—in vain will be any determination of his preſent Majeſty to determine to render his reign illuſtrious by cauſing our laws to be reviewed and recompiled, " than the which," ſaid Lord Bacon, with not a tenth part of our ſtatutes before him, " I think there cannot be a work that his Majeſty can undertake more politic, more honourable, and more beneficial to his ſubjects for all ages" (v. 2. 185.)—Uſeleſs, I ſay, will have been theſe endeavours towards a reformation now become ſo abſolutely neceſſary; and uſeleſs will be any inclination in his preſent Majeſty to bring about that deſirable reformation; until the materials of the patriot, the legiſlator, and the lawyer

ſhall

ſhall be placed in ſome little order and regularity; until the lawyer, the legiſlator, and the patriot can go to work upon ſuch an arrangement of the ſtatutes, and upon ſuch an hiſtorical deduction of them, as this plan propoſes—a plan, which, to uſe the words of Lord Bacon about another propoſal, does not "regard the matter of the laws, but the manner of their regiſtry, expreſſion, and tradition, ſo that it giveth them rather light than any new nature."

It is propoſed therefore,

By repeatedly peruſing every ſtatute enacted by the legiſlature, to ſet apart to every claſs of individuals that particular portion of law, whether contained in whole ſtatutes or in parts of ſtatutes, which has ever affected, or ſtill continues to affect, their lives, liberty, or property—

To make diſtinct diviſions in every code, ſo far as ſhall be practicable, between what has at any time been law, and what is at preſent law—

By

By conſulting the Journals, &c. &c. to prefix to every ſuch code, or to every collection of ſuch codes, a minute conſtitutional hiſtory of all the ſtatutes therein comprized, as well as of all ſuch acts relative to the ſame ſubject matter as have at any time been propoſed and rejected—

To profit by the errors and overſights of all former editors, and to omit nothing in this edition which may by any accident gratify curioſity or inform enquiry.

This work will of courſe be of the ſame authority as any preſent edition of the ſtatutes; ſince the reader will be convinced, by references, that every line of every ſtatute is here inſerted and aſſigned to ſome claſs of individuals.

It is calculated for the uſe of the politician, the hiſtorian, the lawyer, &c.

Beſides poſſeſſing the minute hiſtory of the very mind of the legiſlature along with a ſeries of its acts, they will poſſeſs alſo, without the trouble of a ſecond reference, a more compleat and certain index of the laws of their country, as far as *perſons* are concerned, than any other that can be formed by human ingenuity---ſince the acts themſelves will here conſtitute their own index, and every particle of the law will here be aſſigned to thoſe to whom alone it relates.

It is propoſed, at the ſame time, for the benefit of the people at large,

To publiſh by itſelf, without the hiſtorical deduction, &c. ſo much of every particular code of law as ſtill remains in force—

And, where the objects of a particular code are neceſſarily allied to ignorance and poverty, to conſult both their pockets and their underſtandings, by ſtriking out of the act or clauſe every thing ſuperfluous; by giving them, in the feweſt poſſible words, a faithful account of the law reſpecting them, as it ſtands at the inſtant; and, by printing it on one page like a ſheet almanack, wherever the quantity of matter will admit of ſuch a degree of compreſſion, to place it at once before their eyes.

May 16, 1781.